

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Erin Donovan	Team: Team # 6	CCRB Case #: 200709677	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 07/06/2007 9:00 AM	Location of Incident: § 87(2)(b) 43rd Precinct stationhouse	Precinct: 43	18 Mo. SOL 1/6/2009	EO SOL 1/6/2009	
Date/Time CV Reported Sun, 07/08/2007 11:02 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Sun, 07/08/2007 11:02 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Nicolas Dipardo	30151	925200	043 PCT
2. SGT Martine Materasso	01124	925686	043 PCT
3. LT Fernando Guimaraes	00000	915848	043 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Samuel Newton	15972	915152	043 PCT
2. POM Nathaniel Anthony	03172	923516	043 PCT
3. POM Michael Cuadra	03492	923718	043 PCT
4. POF Jeannie Corporan	22341	920155	043 PCT
5. POM Phillip Connor	17767	932486	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Nicolas Dipardo	Force: PO Nicolas Dipardo used physical force against § 87(2)(b) at § 87(2)(b)	§ 87(2)(b)
B.POM Nicolas Dipardo	Discourtesy: PO Nicolas Dipardo spoke rudely to § 87(2)(b) at § 87(2)(b)	§ 87(2)(b)
C.POM Nicolas Dipardo	Discourtesy: PO Nicolas Dipardo spoke rudely to § 87(2)(b) at the 43rd Precinct.	§ 87(2)(b)
D.POM Nicolas Dipardo	Force: PO Nicolas Dipardo used physical force against § 87(2)(b) and § 87(2)(b) at the 43rd Precinct.	§ 87(2)(b)
E.LT Fernando Guimaraes	Abuse: Lt. Fernando Guimaraes threatened § 87(2)(b) with the use of force at the 43rd Precinct.	§ 87(2)(b)
F.SGT Martine Materasso	Abuse: Sgt. Martine Materasso authorized the strip-search of § 87(2)(b) and § 87(2)(b) at the 43rd Precinct.	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(4-b), § 87(2)(g)	§ 87(2)(b)

## Synopsis

On July 8, 2007, § 87(2)(b) called IAB and filed a complaint on behalf of her brother, § 87(2)(b). The CCRB received the complaint on July 8, 2007. On July 6, 2007 at approximately 9:00am in front of § 87(2)(b) § 87(2)(b) in the Bronx, § 87(2)(b) was outside with his friend, § 87(2)(b). PO Nicolas Dipardo, allegedly grabbed § 87(2)(b) and dropped him on the ground. PO Dipardo allegedly placed his foot in his back and searched his pockets (Allegation A). § 87(2)(b) alleged that PO Dipardo stated, “You know what the fuck you were doing” (Allegation B). § 87(2)(b) and § 87(2)(b) were arrested and taken to the 43<sup>rd</sup> Precinct.

At the 43<sup>rd</sup> Precinct, PO Dipardo allegedly told § 87(2)(b) to “shut the fuck up” several times (Allegation C). § 87(2)(b) alleged that PO Dipardo then threw him into a door and he fell to the ground. PO Dipardo also allegedly kicked § 87(2)(b) in the ribs and stepped on his hand (Allegation D). § 87(2)(b) alleged that Lt. Fernando Guimaraes threatened him by saying, “Wait until you get in the bathroom” (Allegation E). Both § 87(2)(b) and § 87(2)(b) alleged that they were strip-searched by an officer at the precinct (Allegation F). § 87(2)(b) alleged that PO Dipardo then punched him in the face at the precinct (subsumed in Allegation D).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

This case was originally assigned to Investigator John Teufel on July 10, 2007 and upon his resignation was reassigned to Investigator Erin Donovan on July 14, 2008.

## Summary of Complaint

§ 87(2)(b)

On July 8, 2007, § 87(2)(b) filed a complaint with IAB via the telephone to make a complaint on behalf of her brother, § 87(2)(b) (enc.4a-b). She stated that people in her neighborhood told her that he was “beat up” by plainclothed officers. She did not witness the incident.

§ 87(2)(b)

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) and complained of pain to his left hand including two of his fingers. § 87(2)(b) was in police custody and was arrested. He stated that he was “attacked” by the police. The police assaulted him in his face and stepped on his hand (enc. 25a-r).

On July 17, 2007, § 87(2)(b) was interviewed at the CCRB (enc. 6a-e). On July 6, 2007, at approximately 9:00am, § 87(2)(b) and § 87(2)(b) were hanging out around the Bronx River Housing Project, which is located at and around § 87(2)(b). § 87(2)(b) gave § 87(2)(b) a handshake while standing on the corner of Ward Avenue and § 87(2)(b). The two then turned away from each other. § 87(2)(b) began walking toward his building at § 87(2)(b), which is part of the housing complex. As he walked past § 87(2)(b) § 87(2)(b) an officer came up from behind him and grabbed both of his shoulders.

PO1 (white, male, tan, dark brown hair, 6’0”, muscular build, had a Marine Corp tattoo on his left arm, wore shorts and a tank top), identified as PO Dipardo by the description of his tattoo, lifted § 87(2)(b) off the ground and dropped him. PO Dipardo placed his knee and foot in § 87(2)(b)’s back. PO Dipardo handcuffed § 87(2)(b). PO Dipardo placed his hands inside § 87(2)(b)’s pockets, and found \$230 that § 87(2)(b) had on him. PO Dipardo then said, “You know what the fuck you were doing.” PO Dipardo then took § 87(2)(b) from § 87(2)(b) § 87(2)(b) to § 87(2)(b) § 87(2)(b).

In front of § 87(2)(b) § 87(2)(b) saw an unmarked white van. § 87(2)(b) noticed that § 87(2)(b) was seated in the back of the van. § 87(2)(b) also saw his friend § 87(2)(b) lying on the street directly next to the van. PO2 (black, male, wearing a Sanitation shirt that read “We Clean Up What Other Cops Leave Behind”, “chubby”, wore a baseball cap), identified through the investigation as PO Phillip Connor was standing next to § 87(2)(b). PO3 (white, male, very tan, about 50 years old, dark hair that looked dyed, in plainclothes), identified as PO Cuadra was also standing around with a walkie-talkie. § 87(2)(b) was led next to the van and seated on the ground. PO Dipardo approached him, and § 87(2)(b) asked the officer to be gentle with him, as he has abscesses on parts of his body. PO Dipardo responded, “You don’t have abscesses, you have crack in your ass.” PO Dipardo

asked § 87(2)(b) if his hand hurt. § 87(2)(b) responded that it did not. PO Dipardo stepped on § 87(2)(b)'s hand and walked away.

Two uniformed police officers transported § 87(2)(b) to the 43<sup>rd</sup> Precinct stationhouse. At the stationhouse, § 87(2)(b) was taken to a room with several vending machines and chairs set up. PO Connor led § 87(2)(b) into a bathroom attached to the room. § 87(2)(b) told PO Dipardo that he should not have been arrested because he wasn't selling any drugs. PO Dipardo picked § 87(2)(b) up from his chair and then threw him directly into the bathroom door, which was closed. § 87(2)(b) heard a large amount of commotion coming from the bathroom. A white-shirted officer walked into the room at this point. § 87(2)(b) said to him, "Please, stop your officers, they're raping my man!" The white-shirted officer, PO4 (white male, possibly Hispanic, in his 40s), identified as Lt. Guimaraes looked at § 87(2)(b) and said, "Wait till you get in the bathroom."

After a few minutes, PO Dipardo exited the bathroom with § 87(2)(b) and picked § 87(2)(b) up. He led him into the bathroom and told him to remove his clothing. PO Connor was also in the bathroom. § 87(2)(b) protested, using profanity with the officer and reminding him that he was handcuffed. PO Dipardo then punched § 87(2)(b) directly in the head with a fist. Directly after he did this, § 87(2)(b) spit in the officer's face. PO Dipardo removed all of § 87(2)(b)'s clothing. After being strip-searched, § 87(2)(b) was brought to a holding cell. § 87(2)(b) was charged § 87(2)(b).

§ 87(2)(b) was taken to § 87(2)(b) where he was treated for abscesses on his body and complained of pain to his left hand.

### Results of Investigation

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) and his chief complaint was generalized body pain including neck pain and pain to the right side of his face. § 87(2)(b) also complained of pain to his left hand and was given a splint. § 87(2)(b) was in NYPD Custody and complained of left hand pain after it was "stepped on by an officer," and complained of pain after being hit in the back (enc.24a-ff).

On July 18, 2007, § 87(2)(b) was interviewed at the CCRB (enc. 7a-e). On July 6, 2007, at approximately 8:30am, § 87(2)(b) and § 87(2)(b) were at a Burger King near § 87(2)(b). § 87(2)(b) said goodbye to § 87(2)(b). As he did so, § 87(2)(b) gave § 87(2)(b) "five," meaning he slapped his hand with § 87(2)(b)'s as a way of saying goodbye. § 87(2)(b) then turned around and began walking toward § 87(2)(b). § 87(2)(b) turned around and began walking toward § 87(2)(b) where the mother of his child lives. After taking a few steps, he heard the sirens of a police vehicle behind him. § 87(2)(b) stopped and turned around, seeing an unmarked police vehicle pull up behind him. § 87(2)(b) immediately put his hands into the air. Four police officers exited the vehicle, and three police officers rushed toward § 87(2)(b). PO1 (white, male, 5'11", 178 lbs., had a Marines tattoo of some kind on his upper arm, wore a blue tank top and black shorts), identified by the CCRB as PO Dipardo and PO2 (male, white, tan, looked like Marcy's first husband from the television show "Married With Children," 5'10", stocky build, wore a blue collared shirt and shorts), identified by the CCRB as PO Cuadra grabbed § 87(2)(b) and placed him face first against a nearby gate. PO Dipardo and PO Cuadra grabbed § 87(2)(b) and both officers led him to a nearby vehicle and threw him onto the hood face down. PO Cuadra then began feeling inside the pockets of § 87(2)(b)'s pants.

One of the officers handcuffed § 87(2)(b). After the officers finished searching § 87(2)(b)'s pockets, they picked him up and walked him toward an unmarked white van parked nearby. § 87(2)(b) saw his friend § 87(2)(b) lying on the street by the van. § 87(2)(b) was placed in the van by the officers. § 87(2)(b) saw § 87(2)(b) being led in handcuffs, and yelled to him, "What did they get you for?" After a few minutes, PO Dipardo and PO3 (white, male, glasses, skinny, wore a "wifebeater" with a white T-shirt over it) entered the van and drove § 87(2)(b) to the 43<sup>rd</sup> Precinct stationhouse.

At the stationhouse, PO Dipardo led § 87(2)(b) into a room and placed him in a chair. An officer led § 87(2)(b) into a room that connected to this room. § 87(2)(b) could not provide a description of the officer. § 87(2)(b) began telling PO Dipardo that the officers were making a mistake, as he had been arrested several months ago for drug charges when he did not have any drugs on him. PO Dipardo told § 87(2)(b) to "shut the fuck up" several times. § 87(2)(b) responded to this by saying, "Okay then hit me." PO Dipardo said, "Come here!" He then grabbed § 87(2)(b) stood him up, and forcibly pushed him into a door in the room. The door flew open and § 87(2)(b) found himself lying on the floor of a bathroom. He hit his

head on the door, and the impact caused him to stumble and fall. § 87(2)(b) then “passed out” for a few minutes, likely due to the impact of the door and hitting the floor. When he awoke, he was still laying on the bathroom floor. There was blood on the floor next to him, as he was bleeding from the mouth. PO Dipardo kicked § 87(2)(b) in the ribs several times. PO Dipardo then took off § 87(2)(b)'s handcuffs. He said, “Get the fuck up,” and then stepped on § 87(2)(b)'s right hand.

PO Dipardo and PO Cuadra then lifted § 87(2)(b) from the floor. He was then told to remove his clothing, which he did. After the officers were satisfied that § 87(2)(b) had no contraband on him, they allowed him to put his clothes back on. He was then taken to a holding cell. Later, § 87(2)(b) would ask any officer who came into the cell area to go to the hospital, as both his head and hand were throbbing with pain. His hand was also swollen. All of the officers said that they were not § 87(2)(b)'s arresting officer, and that they would have to ask the captain. Later, a female sergeant came into the holding cell area and asked § 87(2)(b) if he wished to go to the hospital. § 87(2)(b) said he did, and showed this officer his swollen hand. The officer replied that if § 87(2)(b) went to the hospital, he would not make his court appearance for a much longer time. § 87(2)(b) insisted on going to the hospital. A few moments later another officer, a male, entered and also told § 87(2)(b) that if he went to the hospital he would be delayed in going to court. Again, § 87(2)(b) stated that he wanted to go to the hospital. A bit later, § 87(2)(b) was taken to § 87(2)(b).

#### **Attempts to contact additional witnesses**

§ 87(2)(b) was arrested with § 87(2)(b) and § 87(2)(b). The investigator attempted to call § 87(2)(b) several times and there was no answer and no voicemail between September 5, 2007 and November 7, 2007. Letters were sent to § 87(2)(b)'s address on September 5, 2007 and September 10, 2007, which were not returned to the agency. To date § 87(2)(b) has not contacted the CCRB.

#### **Officers Interviewed**

PO Newton was listed as the arresting officer for § 87(2)(b) and § 87(2)(b) and it was determined through roll call that he was assigned to SNEU. PO Cuadra, PO Dipardo, PO Connor and PO Anthony were all assigned to SNEU on the date of the incident and were therefore interviewed by the CCRB. PO Cuadra stated that he also worked with Lt. Guimaraes consequently he was interviewed by the CCRB. The CCRB also interviewed Sgt. Materasso because PO Dipardo stated that she was the supervisor of the SNEU team.

#### **Officer Statement: Officer Nicholas Dipardo**

On March 19, 2008, Officer Nicholas Dipardo (male, Hispanic, 6'0", black hair, brown eyes) was interviewed at the CCRB (enc. 11a-b). On July 6, 2007, PO Dipardo worked from 5:00am to 1:35pm and was assigned to SNEU to execute a search warrant. He was not partnered with a specific officer. PO Dipardo was in uniform and was assigned to an unmarked vehicle. He did not have any relevant memo book entries regarding the incident.

On July 6, 2007 at approximately 9:00am, PO Dipardo and the other SNEU officers were concluding the execution of a search warrant when he received a phone call from PO Hammer, who works in the Viper Unit, on his personal cell phone. The reason that PO Hammer called PO Dipardo on his cell phone is because he is on modified duty and works in the Viper Unit. The search warrant location was about a block from the drug transaction location. PO Hammer advised the officers of a drug transaction with several individuals selling drugs to another individual. PO Hammer told PO Dipardo that there were several individuals that “hit off” a female, identified as § 87(2)(b). PO Hammer did give PO Dipardo descriptions of the individuals, but PO Dipardo did not recall the descriptions. “Hit off” meant that the individuals just sold § 87(2)(b) drugs. PO Hammer has about 300 hundred cameras in the Viper Unit and did not lose sight of the individuals at any point. PO Hammer indicated where the individuals were and how close they were to the officers as they approached the location.

PO Dipardo drove by himself in a van to the location. The officers went to the location and made the arrests. The female, § 87(2)(b) and the other individuals were split up when PO Dipardo arrived on the scene. The officers apprehended § 87(2)(b) who had drugs and then apprehended the other three individuals. PO Dipardo arrested a third male, § 87(2)(b). § 87(2)(b) PO Dipardo pulled up in the van and PO Hammer told him that the individual was walking toward him. PO Dipardo jumped out of the van and grabbed § 87(2)(b). § 87(2)(b) did not resist arrest. PO Dipardo searched § 87(2)(b) at the scene and the other individuals were searched. PO Dipardo did not recall if § 87(2)(b) had narcotics on his person.

PO Hammer then gave the description of the other individuals involved and PO Dipardo placed a radio call to the rest of the team. The investigator showed PO Dipardo photos of § 87(2)(b) and § 87(2)(b) and he indicated that he recognized § 87(2)(b). PO Dipardo did not recall which officers arrived and arrested the other individuals involved. PO Dipardo did not recall if he witnessed the actual arrests of the individuals. PO Dipardo did not recall if he transported the prisoners to the station house. PO Dipardo indicated that he has a Marine Corps tattoo on his right arm.

Since neither of the individuals was found with narcotics on the street, once at the station house both § 87(2)(b) and § 87(2)(b) were searched in depth at the precinct. PO Dipardo strip-searched § 87(2)(b) at the precinct. Usually a strip search is conducted if the individual is moving around too much in the van or there was a drug transaction. The strip search was in the precinct and PO Anthony was with PO Dipardo during the search. PO Dipardo did not find anything on § 87(2)(b)'s person during the strip search. PO Dipardo's supervisor was Sgt. Materasso and Lt. Guimaraes. PO Dipardo consulted with his Sergeant before performing the strip search. There was no physical interaction between PO Dipardo and § 87(2)(b) in the bathroom. There was no physical interaction with PO Anthony and § 87(2)(b) in the bathroom. PO Dipardo did not recall if he was present for § 87(2)(b)'s strip search. PO Dipardo never stepped on § 87(2)(b)'s hand during the incident. The individuals are usually separated in the bathroom and placed in different stalls so that they cannot see each other during the strip search. PO Dipardo did not see any injuries on the individuals, except for the lesions caused by § 87(2)(b)'s skin disease. The investigator showed PO Dipardo the command log entries pertaining to this incident and he indicated that they were not in his handwriting.

#### **Officer Statement: Officer Michael Cuadra**

On March 19, 2008, Officer Michael Cuadra (male, white, 5'11", 170lbs, brown hair and brown eyes) was interviewed at the CCRB by Investigator John Teufel (enc. 9a-b). On July 6, 2007, PO Cuadra worked from 5:00am to 1:35pm and was assigned as SNEU for search warrants. He was in uniform and was assigned to a vehicle. PO Cuadra did not recall if the vehicle was marked or unmarked. PO Cuadra did not have any relevant memo book entries regarding the incident.

On July 6, 2007 at approximately 9:00am, they conducted a search warrant and someone from PO Cuadra's team received a call from the Viper Unit in the housing projects. The Viper Unit stated that there were a couple of dealers selling narcotics. The officers were wrapping up with the search warrant so they headed to the location. PO Cuadra was with Lt. Guimaraes and PO Connor in a vehicle. As they arrived at the location someone placed a call over the radio that a female walking on Manor Avenue was just "hit off" by a dealer. PO Cuadra did not recall if the call came from the Viper Unit or another officer. It was about a block and a half away from the search warrant location. The officers went to Manor Avenue and apprehended the female, identified as § 87(2)(b) for a controlled substance. § 87(2)(b) placed the narcotics in her mouth. The officers told her to spit out the narcotics and she complied. PO Cuadra has arrested § 87(2)(b) before and knows her. They placed her in the car. PO Cuadra did not recall if they used his vehicle to transport § 87(2)(b) to the stationhouse. PO Cuadra was in the Lieutenant's car and was not in a van. PO Cuadra was most likely with the female in the vehicle. PO Cuadra did not recall § 87(2)(b) being verbally abusive. She has never given PO Cuadra a hard time. Once § 87(2)(b) was brought to the station house, PO Cuadra went back to the scene and there were two or three individuals being arrested. PO Cuadra did not recall the details of the drug transactions between the individuals who were arrested. The investigator showed PO Cuadra photos of § 87(2)(b) and § 87(2)(b). PO Cuadra stated that § 87(2)(b) looked familiar. PO Cuadra did not interact with § 87(2)(b) during this incident. He did not recall if he was present for the arrests of § 87(2)(b) and § 87(2)(b). PO Cuadra was not present for any strip searches of the individuals. PO Cuadra did not see any physical interactions with officers and § 87(2)(b) at the station house.

#### **Officer Statement: Officer Samuel Newton**

On January 11, 2008, Officer Samuel Newton (male, Hispanic) was interviewed at the CCRB by Investigator John Teufel (enc. 15a-b). On July 6, 2007, PO Newton worked from 8:00am to 4:35pm and was assigned SNEU and was executing a search warrant. He was in uniform and was assigned to a marked van. In his memo book, he stated at 8:55am 1 under and at 9:05am "3 under."

PO Newton prepared the arrest reports for both § 87(2)(b) and § 87(2)(b). In § 87(2)(b)'s arrest report, it stated that the defendant was observed acting in concert with two other apprehended sellers exchanging small objects for U.S. currency with separate apprehended buyer. Search incident to lawful

arrest recovered quantity of crack. According to § 87(2)(b)'s arrest report, there was no physical force used. His charges were § 87(2)(b). § 87(2)(b)'s arrest report had the same narrative as § 87(2)(b)'s arrest report. § 87(2)(b)'s arrest report states that there was no physical force used. His charges § 87(2)(b).

On July 6, 2007, at approximately 9:00am, PO Newton was at the station house and was assigned the arrests from the earlier search warrant that was conducted. PO Newton was not present for the arrests of § 87(2)(b) and § 87(2)(b). SNEU team members PO Dipardo and PO Cuadra brought in the arrested individuals and they gave PO Newton the information to fill out the arrest reports. When the prisoners were brought to the station house PO Newton took their information and began inputting the information. § 87(2)(b) was agitated, hostile and yelled obscenities. PO Newton did not recall § 87(2)(b) complaining of any injuries. The investigator showed PO Newton photos of § 87(2)(b) and § 87(2)(b) and PO Newton indicated that those were the individuals who were arrested and brought in by PO Dipardo and PO Cuadra. PO Newton's supervisor, Sgt. Materasso told him to take the arrests. Sgt. Materasso was present at the station house while PO Newton was processing the arrests. § 87(2)(b) and § 87(2)(b) were searched at the station house. PO Newton did not recall if he performed the searches. The investigator showed PO Newton the command log and he indicated that it was not his handwriting for the entries of § 87(2)(b) and § 87(2)(b). PO Newton did not recall being present for either of the strip searches. Strip-searches performed in the station house usually occur in the cell area or the restroom area. PO Newton did perform strip-searches on that day, but did not strip-search § 87(2)(b) or § 87(2)(b). Lt. Guimaraes was at the station house during the incident. PO Newton did not recall there being any type of fight in the station house involving the prisoners. PO Newton did not recall if he was present when § 87(2)(b) and § 87(2)(b) were placed in cells. PO Newton does not have a Marine Core tattoo on his arm and did not know which officer has that tattoo. § 87(2)(b) never asked PO Newton for medical attention. PO Newton filled out the vouchers for § 87(2)(b) and § 87(2)(b). The investigator showed PO Newton the vouchers. PO Newton indicated that § 87(2)(b) § 87(2)(b) was the only prisoner who had drugs vouchered.

#### **Officer Statement: Sergeant Martine Materasso**

On July 30, 2008, Sergeant Martine Materasso (white, female, 5'10", 140lbs, brown hair, brown eyes) was interviewed at the CCRB (enc. 17a-b). On July 6, 2007, Sgt. Materasso worked from 5:00am to 1:57pm and was assigned as SNEU Supervisor. She worked with her SNEU field team. The field team executed a search warrant on the morning of the incident. She was dressed in uniform and assigned to a vehicle. Sgt. Materasso did not have any entries in her memo book regarding the incident.

On July 6, 2007, Sgt. Materasso executed a search warrant in the morning with her SNEU team and then she was on administrative duty for the rest of her tour. After the search warrant, Sgt. Materasso was aware that the SNEU team went to another location and they were with the Special Operations Supervisor, which was Lt. Guimaraes. Sgt. Materasso was at the precinct when the officers brought § 87(2)(b) and § 87(2)(b) into the stationhouse. Sgt. Materasso was not aware of a fight between the individuals and officers at the precinct. The investigator showed Sgt. Materasso arrest photos of § 87(2)(b) and § 87(2)(b). The investigator presented Sgt. Materasso the command log entries for the day of the incident and she indicated that she made the entries for both of the arrest. According to the command log, § 87(2)(b) was strip-searched and § 87(2)(b) was not strip-searched. Sgt. Materasso authorized the officers to search § 87(2)(b). Sgt. Materasso did not remember why § 87(2)(b) was strip-searched and § 87(2)(b) was not strip-searched. In most incidents it is something that happens in the van with an individual moving around or because the individuals were arrested for an observed narcotics sale and could hide the drugs. It is not routine to strip search every individual and it depends on the actions of each individual arrested. Sgt. Materasso did not recall which officer strip-searched § 87(2)(b) or the reason he was strip-searched. The strip-search would be conducted in either a back cell or the bathroom in the precinct. Since Sgt. Materasso is a female she did not observe the strip-search. Sgt. Materasso did not interact with § 87(2)(b) or § 87(2)(b) while at the precinct.

#### **Officer Statement: Officer Phillip Connor**

On September 26, 2008, Officer Phillip Connor (male, black, 5'11", 240lbs, black hair and brown eyes) was interviewed at the CCRB (enc. 19a-b). On July 6, 2007, PO Connor worked from 5:00am to

1:35pm and was assigned to SNEU. He worked with PO Cuadra and Lt. Guimaraes. PO Connor did not recall if he was dressed in uniform or plainclothes. He was assigned to a Crown Victoria. There were no entries in PO Connor's memo book regarding the incident.

PO Connor conducted a search warrant at § 87(2)(b) and received a phone call from the viper unit, which stated that two individuals were selling drugs. PO Connor and the rest of the field team went to the location. Once the officers arrived at the location, they were given a description of a female, identified by the CCRB as § 87(2)(b). PO Connor did not recall the description provided. The officers stopped § 87(2)(b) about three or four blocks away from the location because she fit the description. § 87(2)(b) had narcotics on her person and was arrested. She was taken to the 43rd Precinct. PO Connor did not interact with any other individuals during the arrest. PO Connor placed § 87(2)(b) in a vehicle and she was taken to the precinct. PO Connor did not transport any other prisoners in the vehicle. Once PO Connor went to the 43rd Precinct, he dealt with § 87(2)(b). The investigator showed PO Connor photos of § 87(2)(b) and § 87(2)(b). PO Connor did not recognize them. PO Connor did not hear any officers use profanity at the arrest location or at the precinct on the day of the incident.

#### **Officer Statement: Lieutenant Fernando Guimaraes**

On November 5, 2008, Lieutenant Fernando Guimaraes (male, Hispanic, 5'8", 175lbs, black hair, brown eyes) was interviewed at the CCRB (enc. 21a-b). On July 6, 2007, Lt. Guimaraes worked from 4:40am to 1:25pm and was assigned as the Special Operations Lieutenant. He worked with the members of the 43rd Precinct SNEU Team. He was dressed in plainclothes and assigned to an unmarked gold Crown Victorian. Lt. Guimaraes did not have any relevant memo book entries regarding the incident.

On July 6, 2007, Lt. Guimaraes was executing a search warrant and at about 8:45am the SNEU Team was called by housing about drug transactions in Bronx River Houses. The Viper Unit called over the radio to relay the information. Officers went to the location and went into either the viper room or an observation post and observed individuals engaged with a female, § 87(2)(b). Lt. Guimaraes and PO Cuadra were stationed on East 172nd Street when the observation team instructed them to stop § 87(2)(b) who engaged in a hand to hand transaction with the other individuals. Lt. Guimaraes and PO Cuadra drove to § 87(2)(b) and when they saw § 87(2)(b) they got out of their vehicle. Lt. Guimaraes and PO Cuadra stopped § 87(2)(b) and recovered crack cocaine from her. Lt. Guimaraes placed a radio call to the field team indicating they had § 87(2)(b) stopped and she had narcotics on her person. Lt. Guimaraes did not see § 87(2)(b) and § 87(2)(b) being arrested. Lt. Guimaraes went back to the station house. At the precinct, § 87(2)(b) and § 87(2)(b) yelled and screamed in the muster room. Lt. Guimaraes went inside of the muster room and § 87(2)(b) and § 87(2)(b) yelled about their arrests. Lt. Guimaraes was not aware if § 87(2)(b) and § 87(2)(b) were strip-searched at the precinct. Sgt. Materasso would have authorized any strip-searches of the individuals. Lt. Guimaraes did not perform any strip-searches. None of the officers used any force on § 87(2)(b) and § 87(2)(b) inside of the precinct. Lt. Guimaraes did not threaten to use force against § 87(2)(b) or § 87(2)(b). Lt. Guimaraes did not bring the individuals into a separate room. Individuals are strip-searched in the precinct in a bathroom that is connected to the muster room.

#### **Officer Statement: Officer Nathaniel Anthony**

On November 5, 2008, Officer Nathaniel Anthony (male, Hispanic, 6'0", 230lbs, black hair, brown eyes) was interviewed at the CCRB (enc. 23a-b). On July 6, 2007, PO Anthony worked from 5:00am to 1:35pm and was assigned to execution of a search warrant. PO Anthony worked with the SNEU team. He did not have a specific partner. PO Anthony did not recall if he was in uniform or plainclothes. He was assigned to an unmarked vehicle. PO Anthony did not have any memo book entries regarding this incident.

On July 6, 2007, PO Anthony conducted a search warrant at § 87(2)(b). PO Anthony was not done with the search warrant until 11:00pm. PO Anthony left the scene at 9:25am to go back to the precinct to finish paperwork for the search warrant. PO Anthony did not recall if the SNEU team left the search warrant and went to a different location. PO Anthony arrested three individuals pursuant to the search warrant and was processing their arrests at the precinct. PO Anthony never went to § 87(2)(b) on the date of the incident. The investigator showed PO Anthony arrest photos of § 87(2)(b) and § 87(2)(b) and he stated that he did not recall seeing the individuals at the precinct. PO Anthony did not recall any physical fight between officers and § 87(2)(b) and § 87(2)(b) at the precinct.

## Medical Records

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) and his chief complaint was generalized body pain including neck pain and the right side of his face. § 87(2)(b) also complained of pain to his left hand and was given a splint. § 87(2)(b) was in NYPD Custody and complained of left hand pain after it was “stepped on by an officer,” and complained of pain after being hit in the back. There were x-rays taken of § 87(2)(b)'s left hand and the images indicated that there was a fracture and swelling (enc.24a-ff).

§ 87(2)(b) was seen at § 87(2)(b) on § 87(2)(b) and complained of pain to his left hand including two of his fingers. § 87(2)(b) was in police custody and was arrested. He stated that he was “attacked” by the police. The police assaulted him in his face and stepped on his hand. § 87(2)(b) complained of swelling and pain under his right armpit. There was slight swelling to his fingers. § 87(2)(b) (enc.25a-r).

## Police Department Documents

The command log listed PO Newton's arrests of § 87(2)(b) and § 87(2)(b). Their physical conditions were listed as normal. There was a notation that § 87(2)(b) was strip-searched. There was no notation in the command log that § 87(2)(b) was strip-searched (enc.28a). There was a Sprint generated for the incident, which stated there were two people under arrest and they were transported to the precinct (enc.32a).

## CCRB Histories

PO Dipardo has not had any substantiated allegations with the CCRB in his 8 years of service to the NYPD. Sgt. Materasso has not had any substantiated allegations with the CCRB in his 8 years of service to the NYPD. Lt. Guimaraes has not had any substantiated allegations with the CCRB in his 13 years of service to the NYPD (enc.2a-c).

§ 87(2)(b) has not previously filed any complaint with the CCRB. § 87(2)(b) has not filed any previous complaints with the CCRB (enc.3a-c).

## Civilian Criminal History

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

## Conclusions and Recommendations

### Officer Identification

§ 87(2)(b), § 87(2)(g) The roll call indicated that they both worked on the SNEU team on the date of the incident and they acknowledged in their CCRB interviews that they were on the scene. § 87(2)(g) Lt. Guimaraes and Sgt. Materasso were identified as the supervising officers of the SNEU team on the date of the incident. Lt. Guimaraes was at the 43<sup>rd</sup> Precinct when § 87(2)(b) and § 87(2)(b) were being processed. § 87(2)(b), § 87(2)(g) It was determined that Sgt. Materasso authorized the strip-searches of § 87(2)(b) and § 87(2)(b) because she made the command log entries.

### Undisputed Facts

It is undisputed that § 87(2)(b) and § 87(2)(b) were arrested and charged § 87(2)(b). There is no dispute that § 87(2)(b) was strip-searched in the 43<sup>rd</sup> Precinct.



## Disputed Facts

§ 87(2)(b), § 87(2)(g)

## Assessment of Evidence

§ 87(2)(b) alleged that PO Dipardo threw him on the ground, placed his foot in his back and stepped on his hand and then later, at the stationhouse punched him in the face. § 87(2)(b) also alleged that PO Dipardo searched his pockets and used profanity. PO Dipardo denied the allegations. § 87(2)(b)'s medical records indicated that he had swelling to his fingers on his left hand. § 87(2)(b) alleged that at the stationhouse, PO Dipardo kicked him in the ribs and stepped on his hand. § 87(2)(b)'s medical records indicated that he complained of pain to his left hand and was given a splint. There were x-rays taken of § 87(2)(b)'s left hand and the images indicated that there was a fracture and swelling. The medical records also state that he alleged that he was attacked by the police and that police officers stepped on his hand. § 87(2)(b), § 87(2)(g)

Regarding the strip-searches, the command log shows § 87(2)(b) was strip-searched and that § 87(2)(b) was not. PO Dipardo did not deny that § 87(2)(b) was searched and noted an "in-depth search" of both men was done at the stationhouse because the officers did not find narcotics on § 87(2)(b) and § 87(2)(b) on the street. Sgt. Materasso who authorized the strip-search did not know specifically why § 87(2)(b) was searched and why there was no notation that § 87(2)(b) was strip-searched. § 87(2)(g)

## Allegations not pleaded

§ 87(2)(b), § 87(2)(g)

**Allegation A) PO Nicolas Dipardo used physical force against § 87(2)(b) at § 87(2)(b)**

**Allegation D) PO Nicolas Dipardo used physical force against § 87(2)(b) and § 87(2)(b) at the 43rd Precinct.**

As noted above, § 87(2)(b) and § 87(2)(b)'s medical records show that they were injured and support their allegations. § 87(2)(g)

**Allegation B) PO Nicolas Dipardo spoke rudely to § 87(2)(b) at § 87(2)(b)**

**Allegation C) PO Nicolas Dipardo spoke rudely to § 87(2)(b) at the 43rd Precinct.**

**Allegation E) Lt. Fernando Guimaraes threatened § 87(2)(b) with the use of force at the 43rd Precinct.**

Both § 87(2)(b) and § 87(2)(b) alleged that PO Dipardo used discourteous language and PO Dipardo denied the allegations. Lt. Guimaraes denied threatening § 87(2)(b) with force. § 87(2)(g)

**Allegation F) Sgt. Martine Materasso authorized the strip-search of § 87(2)(b) and § 87(2)(b) at the 43rd Precinct.**

§ 87(2)(b) and § 87(2)(b) both alleged that an officer strip-searched them once they were transported to the 43rd Precinct. Sgt. Materasso did not recall the specific incident and was not sure if § 87(2)(b) was strip-searched. Sgt. Materasso indicated in her interview that if an individual is strip-searched she would authorize it and document it in the command log. There was a documentation of § 87(2)(b)'s strip-search. There was no documented strip-search in the command log for § 87(2)(b) § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: